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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,981	02/19/2004	Michael J. Simmons	3141-6218US	4403
24247	7590	10/18/2006	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			MCKINLEY, CHRISTOPHER BRIAN	
			ART UNIT	PAPER NUMBER
			3781	

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/783,981

Applicant(s)

SIMMONS ET AL.

Examiner

Christopher B. McKinley

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 54-75 is/are allowed.
- 6) ☒ Claim(s) 1-40, 42, 44, 45, 48-50, 52 and 53 is/are rejected.
- 7) ☐ Claim(s) 41, 43, 46, 47 and 51 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/19/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sleeve having "stabilizing features each comprising at least two circumferentially separated, upwardly oriented arcuate recesses sized and configured to engage the rim of another sleeve structure" (see claims 38 and 39), the container having "a stabilizing feature comprising an inwardly oriented radial protrusion wherein one stabilizing feature is sized and configured to engage at least a portion of a rolled rim formed on a lower longitudinal end of the sleeve" (see claims 19 and 20) and "inwardly radial protrusions" (see claims 32 and 33) formed on a sleeve appears to not be shown. No new matter should be entered.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19, 20, 32, 33, 38 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The information disclosed in the specifications and drawings is insufficient and does not provide adequate disclosure in order to understand the claimed matter. More specifically, the sleeve having "stabilizing features each comprising at least two circumferentially separated, upwardly oriented arcuate recesses sized and configured to engage the rim of another sleeve structure" (see claims 38 and 39), the container having "a stabilizing feature comprising an inwardly oriented radial protrusion wherein one stabilizing feature is sized and configured to engage at least a portion of a rolled rim formed on a lower longitudinal end of the sleeve" (see claims 19 and 20) and "inwardly radial protrusions" (see claims 32 and 33) formed on a sleeve appears to not be shown.

3. Claims 27-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 27, the applicant uses the phrase "upon the another container" in line 7 of the claim. It is unclear what the intended meaning of this phrase is as it relates to the other information within the claim. Further explanation is required or consider revising.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6, 7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruce et al. (6,419,112). Bruce et al. ('112) discloses all the limitations of the claims including a lid (fig. 1) comprising a radially extending body sized to engage a portion of a container (fig. 4, 22). It should be noted that the lid is capable of engaging a portion of a sleeve from another container having a select size and shape by way of a stabilizing feature (22).

Regarding claims 2-4, Bruce et al. ('112) discloses a lid configured to engage the rolled rim of a container (fig. 8), having an aperture (fig. 1, 38) and a downwardly oriented arcuate recess to engage the rolled rim of a container (fig. 4, 20).

Regarding claims 6, 7 and 9-11, Bruce et al. ('112) discloses a stabilizing feature positioned proximate to the rolled rim of the container (fig. 10, 32), also engaging a portion of the rolled rim (21), comprising an upwardly oriented arcuate recess (32) formed to engage a portion of the rolled rim of a sleeve structure and the feature is integrally formed with the lid.

6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Diamond (6,250,494). Diamond ('494) discloses all the limitations of the claims including a lid (fig. 1, 60) comprising a radially extending body (fig. 3) sized to engage a portion of a container (fig. 5). It should be noted that the lid is capable of engaging a portion of a sleeve from another container having a select size and shape by way of a stabilizing feature (fig.4, 70) positioned beyond the opening of the container (fig. 5).

7. Claims 1, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss et al. (2002/0020708). Weiss et al. ('708) disclose all the limitations of the claims including a lid (fig. 1) comprising a radially extending body sized to engage a portion of a container (fig. 3). It should be noted that the lid is capable of engaging a portion of a sleeve from another container having a select size and shape by way of a stabilizing feature (fig. 1, 30). The stabilizing feature comprises circumferentially separated stabilizing features (34) wherein the features have an upwardly arcuate recess configured to engage at least a portion of the rolled time of a sleeve structure.

Art Unit: 3727

8. Claims 27-31, 34-37, 48-50 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by R.T. Jolly (3,257,025).

Regarding claims 27, 28 and 48, R.T. Jolly ('025) discloses all the limitations of the claims including a sleeve structure (fig. 2) having a frustoconical shape, comprising a sidewall (22) configured to be assembled with a container (12) and further forming space between the two (34). It should be noted that the stabilizing feature (30) is capable of being configured to engage a portion of another, like sleeve structure assembled with another container positioned longitudinally above the container.

Regarding claims 29-31, R.T. Jolly ('025) discloses a stabilizing feature (fig. 2, 30) made to lie beyond the opening of the container, proximate to the rolled rim of the container and capable of engaging a portion the rolled rim of a another sleeve structure.

Regarding claims 34-36, R.T. Jolly ('025) discloses a stabilizing feature comprising an upwardly oriented arcuate recess (fig. 2, 30) capable of engaging the rolled rim of another sleeve wherein the stabilizing feature (30) is integrally formed with the sleeve structure.

Regarding claims 49-50 and 52, R.T. Jolly ('025) discloses a sleeve structure (fig. 2) comprising a sidewall (22) sized to encompass a portion of a container (12) forming a space between the two (34); also having two frustoconical regions wherein the two regions (fig.1) have opposing tapers, the above tapered region (30) being disposed within the one below (22). It should be noted that the above region is capable of complimenting the container disposed there within.

Regarding claim 52, R.T. Jolly ('025) discloses at least one generally cylindrical region (fig. 1, 22).

9. Claims 40, 42, 44 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Gale (D426,367). Gale ('367) discloses all the limitations of the claims including a side wall (fig. 1) configured to encompass a portion of a container forming a space between the two wherein the upper longitudinal end includes two or more circumferentially separated longitudinally extending sections, configured to support and engage the container. It should be noted the reference is capable of performing the same functionality of the claimed invention when used in an inverted position.

Regarding claims 42, 44 and 45, Gale ('367) discloses the sleeve having a frustoconical shape with two sections, the below section also having a frustoconical shape, wherein the above section can bend radially inward into the interior of the sleeve structure forming a radially outward taper in an upward longitudinal direction enabling it to engage and support the sidewall of the container (fig. 1).

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.



11. Claims 15-18, 21-25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Goeking et al. (6,883,677). Goeking et al. ('677) discloses all the limitations of the claims including a container (fig. 17, 134) comprising a sidewall extending from the lower wall forming an opening (132) and a stabilizing feature (146) sized and configured to engage a portion of a sleeve assembled with another container positioned longitudinally above the container (134).

Regarding claims 16-18, Goeking et al. ('677) discloses a stabilizing feature (fig. 17, 146) engaging a portion of the rolled rim (136) of the container, positioned beyond the opening of the container (132) and proximate to the rolled rim of the container.

Regarding claims 21-23, 25 and 26, Goeking et al. ('677) discloses a stabilizing feature (fig. 17, 146) comprising an upwardly arcuate recess, integrally formed on the rolled rim (136) of the container (134) wherein there are two or more circumferentially separated stabilizing features.

12. Claims 27 and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Candy (2004/0084346). Candy ('346) discloses all the limitations of the claims including a sleeve structure (fig. 2) comprising a sidewall (4) configured to be assembled with a container (1) forming space between the two, and having a stabilizing feature (6) configured to engage a portion of another, like sleeve structure assembled with another container positioned longitudinally above the container (fig. 1).

Regarding claims 29-31, Candy ('346) discloses a stabilizing feature positioned proximate to the rolled rim of the container, beyond the opening of the container (fig. 2, 6) and engaging the rolled rim of another sleeve (5).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruce et al. ('112) in view of Newman (4,978,024). Bruce et al. ('112) describes the invention substantially as claimed, described in paragraph 5, excluding inwardly radial protrusions. However, Newman et al. ('024) teaches inwardly radial protrusion (fig. 2, 12) for the purpose of providing a means for gripping (column 3, lines 20-25). Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have modified Bruce et al. ('112) with inwardly radial protrusions for the purpose of gripping.

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being obvious over Bruce et al. ('112). Bruce et al. ('112) discloses the claimed invention except for the stabilizing feature being removable. However, it would have been an obvious matter of design choice to make the stabilizing feature removable, since applicant has not disclosed that

Art Unit: 3727

this limitation solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the stabilizing feature being integrally formed and non-removable. Moreover, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

16. Claim 24 is rejected under 35 U.S.C. 103(a) as being obvious over Goeking et al. ('677). Goeking et al. ('677) discloses the claimed invention except for the stabilizing feature being removable. However, it would have been an obvious matter of design choice to make the stabilizing feature removable, since applicant has not disclosed that this limitation solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the stabilizing feature being integrally formed and non-removable. Moreover, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

17. Claim 37 is rejected under 35 U.S.C. 103(a) as being obvious over R.T. Jolly ('025). R.T. Jolly ('025) discloses the claimed invention except for the stabilizing feature being removable. However, it would have been an obvious matter of design choice to make the stabilizing feature removable, since applicant has not disclosed that this limitation solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the stabilizing feature being integrally

Art Unit: 3727

formed and non-removable. Moreover, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

18. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over R.T. Jolly ('025) in view of Gale (6,364,151). R.T. Jolly ('025) discloses the invention substantially as claimed, described in paragraph 8, excluding the stabilizing feature comprising circumferentially separated sections. However, Gale ('151) teaches a stabilizing feature comprising circumferentially separated sections for the purpose of reducing material cost. Therefore, it would have been obvious at the time of invention to have modified R.T. Jolly ('025) with a stabilizing feature comprising circumferentially separated sections in order to reduce material cost.

#### ***Allowable Subject Matter***

19. Claims 41, 43, 46, 47 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

20. Claims 54-75 are allowed.

#### ***Conclusion***

Art Unit: 3727

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. L.T. Mart (2,493,633) discloses the invention substantially as claimed.

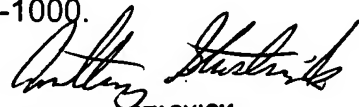
22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher B. McKinley whose telephone number is (571) 272-3370. The examiner can normally be reached on 7:00 AM - 3:30 AM.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ANTHONY D. STASHICK  
PRIMARY EXAMINER